

VERMONT LABOR RELATIONS BOARD

VERMONT STATE EMPLOYEES'  
ASSOCIATION, INC.

v.

STATE OF VERMONT

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DOCKET NO. 81-76

MEMORANDUM AND ORDER  
DECLINING TO ISSUE UNFAIR  
LABOR PRACTICE COMPLAINT

On November 24, 1981, the Vermont State Employees' Association, Inc. ("VSEA") filed an unfair labor practice charge with the Vermont Labor Relations Board, alleging the State violated 3 VSA §961(1). On December 11, 1981, the State denied the charge.

In the charge, VSEA alleged Patricia Cutts, employed by the Department of Finance, was advised by an agent of the employer not to "bother going to the union to appeal your firing" and that "the union can't do anything to help you", four days after Cutts was dismissed by the Finance Department. As a result of the advice, VSEA claims, Cutts did not seek assistance from VSEA concerning her dismissal within the 30-day appeal period provided for by the collective bargaining agreement and rules of the Board. VSEA alleges the advice given Cutts constituted interference with or restraint of Cutts' right to grieve dismissals. VSEA asks the Board to issue a complaint, find the State in violation of 3 VSA §961(1), and suspend its own rule to allow Cutts to file a grievance from her dismissal.

3 VSA §965(a) gives the Board discretionary authority whether to issue an unfair labor practice complaint, and in this instance we choose not to issue a complaint. In the letter notifying her she was dismissed, Cutts was informed:

You have the right to appeal your dismissal at Step IV of the Grievance Procedure before the Vermont Labor Relations Board. Your appeal must be filed within thirty days after receipt of this letter.

We are reluctant to use our jurisdiction to determine unfair labor practices to expand the period for filing grievances; particularly where a clear, written statement is provided an employee of their rights and they choose to ignore it. This is not to imply we encourage employers to make statements such as those alleged to have been made, but we believe the remedy lies in making employees aware of their rights to appeal. Management did so expressly in writing. The VSEA apparently does not have established procedures to contact dismissed employees, nor does the contract require that management notify the VSEA of disciplinary action. However, these are organizational problems best dealt with by means other than unfair practice litigation. Finding no violation of 3 VSA §961(1), we hereby decline to issue an unfair labor practice complaint and dismiss the unfair labor practice charge filed by the VSEA.

Dated this 14<sup>th</sup> day of January, 1982, at Montpelier, Vermont.

*Appeal to S.C.  
dismissed by step  
June 14 82*

VERMONT LABOR RELATIONS BOARD

*Kimberly B. Cheney*  
Kimberly B. Cheney, Chairman

*William G. Kemsley Sr.*  
William G. Kemsley, Sr.

James S. Gilson